

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

STATE OF NEW YORK, *et al.*

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF  
HEALTH AND HUMAN SERVICES;  
ALEX M. AZAR II, *in his official capacity as*  
*Secretary of the United States Department of*  
*Health and Human Services*; and UNITED  
STATES OF AMERICA,

*Defendants.*

No. 1:19-cv-04676-PAE  
(consolidated with 1:19-cv-05433-PAE;  
1:19-cv-05435-PAE)

**STIPULATED REQUEST FOR AN  
ORDER TO POSTPONE RULE'S  
EFFECTIVE DATE; TO SUSPEND  
DEFENDANTS' DEADLINE TO  
RESPOND TO PLAINTIFFS'  
PRELIMINARY INJUNCTION  
MOTIONS; AND TO VACATE THE  
CURRENT BRIEFING SCHEDULE  
AND HEARING DATE  
[5 U.S.C. § 705]**

PLANNED PARENTHOOD FEDERATION  
OF AMERICA, INC.; and PLANNED  
PARENTHOOD OF NORTHERN NEW  
ENGLAND, INC.,

*Plaintiffs,*

v.

ALEX M. AZAR II, *in his official capacity as*  
*Secretary, United States Department of*  
*Health and Human Services*; UNITED  
STATES DEPARTMENT OF HEALTH  
AND HUMAN SERVICES; ROGER  
SEVERINO, *in his official capacity as*  
*Director, Office for Civil Rights, United*  
*States Department of Health and Human*  
*Services*; and OFFICE FOR CIVIL RIGHTS,  
*United States Department of Health and*  
*Human Services,*

*Defendants.*

No. 1:19-cv-05433-PAE  
(consolidated with 1:19-cv-0476-PAE;  
1:19-cv-05435-PAE)

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NATIONAL FAMILY PLANNING AND  
REPRODUCTIVE HEALTH  
ASSOCIATION; and PUBLIC HEALTH  
SOLUTIONS,

*Plaintiffs,*

v.

ALEX M. AZAR II, in his official capacity as  
Secretary of the U.S. Department of Health  
and Human Services; U.S. DEPARTMENT  
OF HEALTH AND HUMAN SERVICES;  
ROGER SEVERINO, in his official capacity  
as Director of the Office for Civil Rights of  
the U.S. Department of Health and Human  
Services; OFFICE FOR CIVIL RIGHTS of  
the U.S. Department of Health and Human  
Services,

*Defendants.*

No. 1:19-cv-05435-PAE  
(consolidated with 1:19-cv-0476-PAE;  
1:19-cv-05433-PAE)

Subject to the Court's approval, the parties through their undersigned counsel of record  
HEREBY STIPULATE as follows:

1. At present, Defendants' opposition to Plaintiffs' motions for a preliminary  
injunction is due on June 28, 2019, Plaintiffs' reply is due on July 5, 2019, and a hearing is  
scheduled on July 12, 2019.

2. The U.S. Department of Health and Human Services ("HHS") agrees to postpone  
the effective date of the rule titled Protecting Statutory Conscience Rights in Health Care;  
Delegations of Authority, 84 Fed. Reg. 23,170 (May 21, 2019) ("Final Rule"), until November 22,  
2019. HHS stipulates to this postponement because it is the most efficient way to adjudicate the  
Final Rule on the merits. HHS does not concede that Plaintiffs are "likely to succeed on the merits,

that [they are] likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in [their] favor, [or] that an injunction is in the public interest.” *See Winter v. NRDC*, 555 U.S. 7, 20 (2008).

3. Plaintiffs maintain that—for the reasons expressed in their motions for a preliminary injunction and their opposition to Defendants’ motion to continue the deadline to respond to Plaintiffs’ motions—Plaintiffs would suffer various irreparable injuries were the Final Rule’s effective date not postponed.

4. The parties request that the Court issue an order, pursuant to 5 U.S.C. § 705, that the effective date of the Final Rule is postponed until November 22, 2019.

5. The parties further request, in light of this postponement, that the Court suspend the June 28, 2019 deadline for Defendants’ opposition brief and set a new and more protracted schedule for submission of the remaining briefs on Plaintiffs’ preliminary injunction motions.

6. The parties agree to meet and confer to determine whether they can reach an agreement on a proposed schedule to resolve this case through cross-motions for summary judgment prior to the Final Rule’s new November 22, 2019 effective date.

Dated: June 28, 2019

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~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED. The effective date of the Final Rule is postponed until November 22, 2019. *See* 5 U.S.C. § 705. Defendants' June 28, 2019 deadline to respond to Plaintiffs' preliminary injunction motions is suspended, and the preliminary injunction briefing schedule and hearing date set forth in the Court's June 7, 2019 and June 13, 2019 Orders is vacated. This order is without prejudice to the merits.

Dated: \_\_\_\_\_

June 28, 2019

  
PAUL A. ENGELMAYER  
UNITED STATES DISTRICT JUDGE